JUN 3 1981

ALEXANDER L. STEVAS
CLERK

No. 80-2035

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

ELECTRONIC DATA SYSTEMS CORPORATION IRAN,
Petitioner,

vs.

THE SOCIAL SECURITY ORGANIZATION OF THE GOVERNMENT OF IRAN, THE MINISTRY OF HEALTH AND WELFARE OF THE GOVERNMENT OF IRAN, THE GOVERNMENT OF IRAN, DONALD T. REGAN, the Secretary of the Treasury of the United States of America, and the UNITED STATES OF AMERICA,
Respondents.

OPPOSITION TO PETITIONER'S MOTION FOR EXPEDITED CONSIDERATION OF ITS PETITION FOR A WRIT OF CERTIORARI OF RESPONDENTS SOCIAL SECURITY ORGANIZATION OF THE GOVERNMENT OF IRAN, THE MINISTRY OF HEALTH AND WELFARE OF THE GOVERNMENT OF IRAN, AND THE GOVERNMENT OF IRAN

JUDITH LEVIN
ERIC M. LIEBERMAN
LEONARD B. BOUDIN
RABINOWITZ, BOUDIN, STANDARD, KRINSKY & LIEBERMAN, P.C.
30 East 42nd Street
New York, New York 10017
(212) OX 7-8640

Attorneys for Respondents The Social Security Organization of The Government of Iran, The Ministry of Health and Welfare of The Government of Iran, and The Government of Iran

NO. 80-2035

IN THE

SUPREME COURT OF THE UNITED STATES

****

October Term, 1980

****

ELECTRONIC DATA SYSTEMS CORPORATION IRAN,
Petitioner,

v.

THE SOCIAL SECURITY ORGANIZATION OF THE GOVERNMENT OF IRAN, THE MINISTRY OF HEALTH AND WELFARE OF THE GOVERNMENT OF IRAN, THE GOVERNMENT OF IRAN, DONALD T. REGAN, THE SECRETARY OF THE TREASURY OF THE UNITED STATES OF AMERICA, AND THE UNITED STATES OF AMERICA,
Respondents.

OPPOSITION TO PETITIONER'S MOTION FOR EXPEDITED CONSIDERATION OF ITS PETITION FOR A WRIT OF CERTIORARI OF RESPONDENTS' SOCIAL SECURITY ORGANIZATION OF THE GOVERNMENT OF IRAN, THE MINISTRY OF HEALTH AND WELFARE OF THE GOVERNMENT OF IRAN, AND THE GOVERNMENT OF IRAN

Respondents, Social Security Organization of the Government of Iran, the Ministry of Health and Welfare of the Gov-

ernment of Iran, and the Government of Iran, by counsel, hereby oppose petitioner's motion for expedited consideration of its petition for a writ of certiorari to the United States Court of Appeals, Fifth Circuit. Petitioner's motion and its petition for certiorari both demonstrate that no issue presented in this case justifies expedited review by this Court. In addition, petitioner has made no showing of "imperative public importantce," required by this Court's Rule 18 for certiorari before judgment.

Petitioner, EDSCI, admits that the United States has made no effort to vacate the prejudgment attachment it obtained in the Southern District of New York. No question concerning the prejudgment attachment is before the Fifth Circuit Court of Appeals. The United States has consistently taken the position that,

because the prejudgment attachment was entered prior to the November 14, 1979 Executive Order freezing Iranian assets in this country, the Algerian Declarations and implementing Executive Orders and Regulations neither nullify that attachment nor require transfer of the funds attached by July 19, 1981. Although petitioner devotes a great deal of energy to the issue of transferring funds by July 19, 1981, it concedes, as it must, that the question is simply not presented in this case.

EDSCI argues in its petition, at pp. 9-10 and n. 5, that its present inability to execute on the attachment warrants expedited review in this Court before judgment in the Court of Appeals. EDSCI also points to Iranian respondents' position that the Algerian Declarations require nullification of its prejudgment attachment. Iran, however, does not ask

any court to decide its dispute with the United States about EDSCI's prejudgment attachment, since the Algerian Declarations provide that all disputes between the two countries concerning the meaning and implementation of the Declarations must be referred to the international tribunal. Should the tribunal resolve the dispute in Iran's favor, EDSCI will have an opportunity to be heard when the parties seek to implement such a decision in the appropriate courts. Plainly, none of petitioner's arguments concerning attachment warrants expedited review.

Two Circuit Courts of Appeals have upheld the power of the President to nullify prejudgment attachments of Iranian assets in the context of settling an international crisis. Chas. T. Main International, Inc. v. The United States, No. 81-1187 (1st Cir., May 22, 1981); American

International Group, Inc. v. Islamic Republic of Iran, No. 79-3298 (D.C. Cir., May 22, 1981). Both courts ordered the prejudgment attachments before them vacated. None of the claimants against Iran in those cases has sought expedited review in this Court. Thus, EDSCI's request for expedited consideration by this Court of the propriety of vacating prejudgment attachments and transferring funds seeks an advisory opinion, which this Court may not give.

The questions before the Fifth Circuit on Iran's appeal are many and complex. Those questions have been fully briefed and argued there. The Fifth Circuit might dispose of this case by deciding, under the Foreign Sovereign Immunities Act, that the District Court had no subject matter or personal jurisdiction over EDSCI's claim or the Iranian defendants, thereby obviating the need for a resolution of

the questions of presidential power petitioner seeks to rush into this Court. Even if the Fifth Circuit were to rule on the power of the Executive to settle petitioner's claim against Iran, there is absolutely no need for expedited review. Petitioner need not elect whether to submit its claim to the international tribunal established by the Algerian Declarations for at least six months and perhaps not for many months thereafter. The Declaration of the Government of the Democratic and Popular Republic of Algeria Concerning the Settlement of Claims by the Government of the United States of America and the Government of the Islamic Republic of Iran, provides, in Article III, Paragraph 4, that claims must be filed with the tribunal on January 19, 1982, or six months after the President of the tribunal is appointed,

whichever is later.[1/] No President of the tribunal has yet been appointed, and, should it ever be necessary to resolve the question of Executive power in this case, there is ample time for the Fifth Circuit and this Court to give those questions the careful consideration they require.

In short, petitioner will suffer no prejudice if the ordinary procedures of appellate consideration and review are followed in this case. Once the Fifth Circuit Court of Appeals has decided the appeals already argued before it, this Court may consider whatever petitions or appeals appropriately are presented to it. Since there is no need to invoke the extraordinary procedures urged by petitioner,

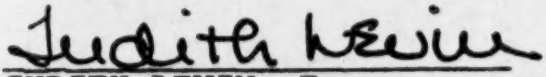
---

1/ In Paragraph 4 of its motion, EDSCI, apparently inadvertently, states that claimants must file a claim in the tribunal by January 19, 1981.

the motion to expedite must be denied.

If, however, the Court nevertheless should grant the motion to expedite, the Iranian respondents urge this Court to require that briefs in opposition to certiorari be filed on June 10, 1981, in time for the Court to consider the question of certiorari before judgment at its next conference.

Respectfully submitted,



JUDITH LEVIN, Esq.
ERIC M. LIEBERMAN, Esq.
LEONARD B. BOUDIN, Esq.
RABINOWITZ, BOUDIN, STANDARD,
KRINSKY & LIEBERMAN, P.C.
30 East 42nd Street
New York, New York 10017
(212) OX 7-8640

Attorneys for Respondents The Social Security Organization Of The Government Of Iran, The Ministry of Health And Welfare Of The Government Of Iran, and The Government Of Iran

New York, New York
June 2, 1981